THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12758 of 2007

Dated: 25-07-2007

Between:

B.Ramadevi.

..... PETITIONER

AND

The Mandal Revenue Officer, Guntakal, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12758 of 2007

ORDER:

The petitioner is resident of Kadiripalli Village, Guntakal Mandal, Anantapur District. Statedly she is owner of agricultural land admeasuring Acs.4.60 in survey No.119 situated in said Village. She allegedly submitted an application on 24.11.2006 to first respondent, namely, the Mandal Revenue Officer, Guntakal, seeking permission to dig a bore-well. As no orders were passed, she got her land surveyed by a Geologist and having found that there is sufficient ground water, she again approached first respondent. She also applied for electricity connection by paying a sum of Rs.5,625/- on 16.04.2007 to the Central Power Distribution Company of Andhra Pradesh. Allegedly first respondent orally granted permission to her. She dug bore-well on 24.04.2007. On 09.05.2007, second respondent, namely, the Mandal Revenue Inspector, along with Panchas came to the land of the petitioner and seized the bore-well by tying the same with a cloth. Aggrieved by the same, instant writ petition is filed. The petitioner contends that the seizure of the bore-well without following the procedure contemplated under the Andhra Pradesh Water, Land and Trees Act, 2002 (the Act, for brevity) and the Andhra Pradesh Water, Land and Trees Rules, 2004 (the Rules, for brevity) is unsustainable.

Third respondent was impleaded by reason of the orders passed by this Court in W.P.M.P.No.19142 of 2007 on 18.07.2007. He filed a counter-affidavit opposing the writ petition. It is alleged that the petitioner dug the bore-well within a distance of 135 kilometers from the bore-well of the third respondent and therefore, it is illegal. Third respondent then made a complaint to first respondent, who issued a show-cause notice to the petitioner on 25.04.2007. The petitioner failed to give explanation and therefore, first respondent ordered for seizure of the bore-well of the petitioner.

The learned counsel for the petitioner, the learned Assistant Government Pleader for Revenue (General-A) and the learned counsel for third respondent reiterated their position as disclosed in the pleadings. During the arguments, a question arose whether there was any prohibition for digging the bore-well in Guntakal Mandal under the Act.

The learned Assistant Government Pleader and the learned counsel for the petitioner produced before this Court a copy of the Andhra Pradesh Gazette Part-VII extraordinary dated 07.06.2006. As per said notification

issued by the Government under Section 11(1) of the Act, Ameenpalli, Donimukkala, Kasapuram, Nelagonda, Sangala, Thimmapuram and Dosaludiki Villages are notified as overexploited areas for a period of six months and under Section 11(3) of the Act, the Government prohibited sinking of a well except for public drinking purpose or hand pump for public/private drinking water purpose. Kadiripalli Village of Guntakal Mandal is not notified Village. Even otherwise under Section 11(1) of the Act, the Government prohibited sinking of well/bore-well in the overexploited area only for a period of six months at a time. The notification was issued on 07.06.2006, which was in force till 06.12.2006. The learned Government Pleader admits that thereafter there is no such notification issued by the Government. Therefore, digging of bore-well by the petitioner in her land on 24.04.2007 is not in any way prohibited or barred either under the Act or the Rules.

The learned counsel for third respondent also opposed the writ petition contenting that against a Panchanama, writ petition would not lie. The submission is noticed only for the purpose of rejection. A perusal of the Panchanama would show that first respondent conducted Panchanama pursuant to the proceedings of first respondent in R.C.No.317/2007(B) dated 09.05.2007. When the petitioner alleges that such an order was passed behind her back and no notice was given, she can maintain the writ petition only on the basis of Panchanama under which her bore-well was seized. The learned Assistant Government Pleader also does not dispute that the notice was not served on the petitioner.

In the result, the writ petition is disposed of directing respondents 1 and 2 to release the bore-well duly removing the cloth tied to it immediately. If the same is not removed within a period of one week from the date of receipt of a copy of this order, it shall be open to the petitioner to fix electric motor pump and use the water from the bore-well. No costs.

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(**V.V.S.RAO, J**)

25th July, 2007

Note: Issue CC by 30.07.2007.

B/o

ghn